

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION AT MEMPHIS**

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HELEN KIMBLE and  
MICHAEL KIMBLE

Plaintiffs,

v.

No.

Jury Demanded

OLLIE'S BARGAIN OUTLET, INC., and  
BIDDEFORD BLANKETS, LLC

Defendants.

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**NOTICE OF REMOVAL**

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BIDDEFORD BLANKETS, LLC, ("Biddeford") by counsel, pursuant to 28 U.S.C. § 1446 now files this Notice of Removal, removing this cause to the United States District Court for the Western District of Tennessee, Western Division. The grounds for this removal, are as follows:

**A. STATE COURT ACTION**

1. On or about September 15, 2023, Plaintiffs commenced this action against the Defendants, in the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, Shelby County, Tennessee where the case is currently pending under Docket No. CT-3786-23, Div. I.

2. Defendant, OLLIE'S BARGAIN OUTLET, INC., ("Ollie's") is believed to have received a copy of the Complaint on September 18, 2023. A copy of the Complaint is attached as

Exhibit “A” to this Notice in accordance with 28 U.S.C. §1446(a). No other pleadings or orders have been served on the Defendant in the pending State Court action, nor have any proceedings taken place in that Court. Ollie’s has answered the complaint. A copy of the Ollie’s Answer is attached as Exhibit “B.”

3. Defendant, BIDDEFORD BLANKETS, LLC, received a copy of the Complaint on September 18, 2023. A copy of the Complaint is attached as Exhibit “A” to this Notice in accordance with 28 U.S.C. §1446(a). No other pleadings or orders have been served on the Defendant in the pending State Court action, nor have any proceedings taken place in that Court. Ollie’s has answered the complaint. A copy of the Ollie’s Answer is attached as Exhibit “B.”

4. Removal to the United States District Court for the Western District of Tennessee, Western Division at Memphis is appropriate because the court from which the case is removed and the situs of the accrual of the alleged cause of action occurred within the jurisdiction and venue of this court’s judicial district.

#### **B. TIMELINESS OF REMOVAL**

This Petition is being filed within thirty (30) days after each Defendant, was served with a copy of the Complaint as required by the provisions of 28 U.S.C. §1446(b).

#### **C. SUBSTANTIAL LIKELIHOOD AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00**

In this products liability action, the Complaint alleges “. . . extensive damage . . .” to Plaintiffs real and personal property caused by the Defendants following a fire. [Complaint ¶ 9]. The Complaint further alleges “extensive property damage, loss of personal belongings,

emotional distress, and other damages suffered by the Plaintiffs.” [Complaint ¶ 14]. The Complaint alleges “Plaintiffs have suffered and will continue to suffer damages, including but not limited to property damage and emotional distress, and economic losses.” [Complaint ¶ 16], and Plaintiffs have suffered and will continue to suffer substantial damages, including but not limited to severe emotional distress, substantial property damage, and economic losses.” [Complaint ¶ 21]. Plaintiffs’ Complaint seeks both compensatory and punitive damages. Based on the description of Plaintiffs’ claims of extensive and substantial damages as well as severe emotional distress and a specific prayer for attorneys’ fees and costs all accompanied by a prayer for punitive damages, there is a “reasonable probability” and/or “substantial likelihood” that the plaintiffs intend to seek damages in excess of \$75,000. Accordingly, pursuant to 28 U.S.C. §1446(c), the amount in controversy which Plaintiffs seek to recover from the Defendants, as demonstrated by the Complaint, substantially likely and reasonably probable to be is in excess of \$75,000.00, as required under 28 U.S.C. §1332(a).

**D. COMPLETE DIVERSITY OF CITIZENSHIP BETWEEN PLAINTIFFS AND THE DEFENDANT**

1. Plaintiff, Helen Kimble, is an adult, resident and citizen of the State of Tennessee.
2. Plaintiff, Michael Kimble, is an adult, resident and citizen of the State of Tennessee.
3. Defendant, OLLIE'S BARGAIN OUTLET, INC., is a corporation domiciled and principally located in the state of Pennsylvania.

4. Defendant, BIDDEFORD BLANKETS, LLC, is organized, domiciled and principally located in the state of Illinois. There are no members of the LLC who are citizens of Tennessee or otherwise share citizenship with any Plaintiff.

5. Neither of the Defendants share common citizenship with either of the Plaintiffs nor are either of the Defendants domiciled or principally located in the state of Tennessee.

5. Pursuant to the provisions of 28 U.S.C. §1332, this Court has original jurisdiction of this action insofar as the amount in controversy has a substantial likelihood of exceeding \$75,000.00, exclusive of interest and costs, and is between citizens of different states. Accordingly, this action is removable under the provisions of 28 U.S.C. §1441.

6. Ollie's has given its written consent to removal and there are no other Defendants from which consent to the removal of this action is required under 28 U.S.C. §1446(b)(2)(A).

**E. NOTICE PROVIDED TO STATE COURT AND TO PLAINTIFF**

Simultaneously with the filing of this Notice of Removal, pursuant to 28 U.S.C. §1446(d), Defendants are providing written notice of this pleading to counsel for the Plaintiff and are filing a copy of this Notice of Removal with the Shelby County Circuit Court Clerk as an attachment to its Notice of Filing of Notice of Removal, attached hereto as Exhibit "C".

Responsive pleadings in accordance with the Federal Rules of Civil Procedure, Rule 81(c), will be filed on behalf of this Defendant unless such response is extended by this Court or by agreement by and between the parties.

WHEREFORE, PREMISES CONSIDERED, Defendant, Biddeford Blankets, LLC respectfully gives Notice of Removal of this action from the Circuit Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee, Western Division at Memphis, pursuant to 28 U.S.C. §§1441 and 1446.

Respectfully submitted,

SHUTTLEWORTH PLLC

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**Attorneys for Defendants**

#### CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2023, a copy of the foregoing was served electronically to counsel set forth below and thereafter filed with the clerk of the Circuit Court in Memphis, Tennessee. Notice of this filing is also being sent by United States mail, postage prepaid, to the following:

Michael Floyd  
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**Attorneys for Ollie's Bargain Outlet, Inc**

A handwritten signature in blue ink, appearing to read "Michael G. Derrick". The signature is fluid and cursive, with a large initial "M" and "D".

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MICHAEL G. DERRICK